



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject
Massage

Number
13-15

Originating Department
Department of Health and Human Services

Effective Date

Montgomery County Regulation On:

MASSAGE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Issued by: County Executive
Regulation No. 13-15
COMCOR No. 24.11.01

Authority: Montgomery County Code (2014) Section 24-1
Supersedes: Executive Regulation 17-01AM
Council Review: Method (2) under Code Section 2A-15
Register Vol. 32 No. 6

Effective Date:
Comment Deadline: June 30, 2015

SUMMARY: This regulation is established to improve enforcement of unlicensed massage in Montgomery County.

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BACKGROUND INFORMATION:

This regulation is part of a package of legislation recommended by the Human Trafficking Task Force in order to address the problem of human trafficking operations masquerading as legitimate massage establishments in Montgomery County. These amendments, coupled with companion legislation and regulations to address other bodyworks establishments, will improve the County's ability to detect and eliminate criminal activity with minimal burden on legitimate business activity. The Department of Permitting Services and the Montgomery County Police Department participated in the development of this regulation.



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24.11.01.01 Definitions

In these regulations, terms defined in Section 24-11 of the County Code are applicable and not redefined; the following words and phrases have the following meanings:

Applicant - A person applying for a massage establishment, massage establishment manager, or massage worker license.

Massage establishment manager - An individual who acts as the manager of a massage establishment.

Massage worker - An individual who administers massages to other individuals.

Renewal Applicant - A person applying for the renewal of a massage establishment, massage establishment manager, or massage worker license.

24.11.01.02 Massage Establishments

A. LICENSE APPLICATION FOR A MASSAGE ESTABLISHMENT

Under procedures established by the Director, a person may obtain a Massage Establishment License by applying to the Director on a form provided by the Director that, at a minimum, requires the person to provide:

1. The applicant's name, current address, the location and mailing address of the proposed establishment, and any address where the applicant has conducted business for the past 5 years;

2. If the applicant is an association or a partnership, the names and resident addresses of each of the associates or partners. If the applicant is a corporation, the names and resident addresses of each of the officers and directors of the corporation and of each stockholder owning more than 10% of the stock of the corporation. If one or more of the stockholders owning more than 10% of the applicant corporation is itself a corporation and owns at least 33% of the stock of the applicant corporation, the names and resident addresses of each of the officers and directors of the corporation and of each stockholder owning more than 10% of the stock of the corporation. If the massage establishment is to be managed by someone other than the applicant, the name and resident address of each manager. Each person who must be identified on the application under this paragraph is considered an applicant



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under these regulations;

3. A description of the facilities and services to be available on the premises of the proposed establishment;

4. The applicant's employment history for the 3 year period preceding the date of application;

5. A statement regarding whether the applicant has ever been convicted of, or pled nolo contendere to, or received probation before judgment in lieu of a conviction of, a crime other than a traffic offense for which imprisonment was not a possible punishment; the nature of the crime; a description of the disposition of the matter; and the name and address of any parole or probation officer or agency that may have knowledge of the offense or the proper completion of any sentence, probation, or parole;

6. A statement regarding whether the applicant has ever received a civil citation for practicing massage without a license or any related offense.

[6]7. All necessary signatures and approvals to authorize a complete criminal background check for all applicants;

[7]8. A copy of the applicant's fingerprints, which must be taken by the Montgomery County Police Department upon payment of the fee established by Executive Regulation, and 4 passport style photographs of the applicant, consisting of 3 front and one side view;

[8]9. The required fee;

[9]10. The history of the applicant in the operation of massage establishments including whether or not the person, in previously operating in this or another county or state under license, registration or permit, has had a license, registration, or permit revoked or suspended, and the reason for the revocation or suspension, and the business activity or occupation of the applicant after the suspension or revocation;

[10]11. The applicant's statement under oath that all of the information contained in the application is true and correct;

[11]12. Evidence that the applicant has a comprehensive general liability insurance policy from an insurer licensed in Maryland in the amount of at least \$ 1,000,000 that covers all acts of



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the licensee; a certificate indicating that a massage establishment manager(s) and all massage workers have professional liability insurance in the amount of \$500,000 each; and evidence that the applicant has workmen's compensation insurance coverage as may be required under state law; and

[12]13. Evidence that the applicant has a license and permit bond in the amount of \$10,000 to cover all activities at the massage establishment.

B. APPLICATION FOR MASSAGE ESTABLISHMENT MANAGER LICENSE

1. Nature of Applicant - Only individuals may apply for a massage establishment manager license.
2. Names, Addresses and Phone Numbers - Each application must include:
 - a. The full name of the applicant, including any maiden name, alias or name under which the applicant has previously been known;
 - b. The applicant's date of birth, residence address, social security number, and residence phone number at the time of application and for the 3 year period preceding the date of application; and
 - c. The applicant's business address and business phone number at the time of application.
3. Fingerprints - A complete set of fingerprints of the applicant taken by the Montgomery County Police Department must accompany each application.
4. Location of Worksite - Ownership:
 - a. An application for a manager license must include:
 - (i) The location and mailing address of the massage establishment in Montgomery County where the applicant will be working;
 - (ii) The phone number of the massage establishment (if the establishment has phone service at the time of application); and
 - (iii) The name of the person who holds the Montgomery County license to operate the massage establishment where the applicant will be working.



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b. A license issued under this section is only valid at a single establishment. If an individual works as a manager at more than one establishment, the individual must apply separately for a license for each establishment.

5. History of Applicant - Training and Experience - The application must include:

a. A description of the applicant's training and experience, including any licenses to administer massages or to manage or operate a massage establishment, or diplomas or certificates from professional organizations recognized by the director; and

b. The names and addresses of each massage establishment where the applicant has been employed, and the dates of employment. If the applicant has not been employed by a massage establishment during the past 3 years, the names and addresses of the applicant's employers during the 3 years preceding the application.

6. History of Applicant - Prior License History: The application must include information regarding any massage related permit, registration, or license that has been denied, suspended or revoked, and the reasons for the denial, suspension or revocation. The application must also indicate whether the applicant has ever received a civil citation for practicing massage without a license or any related offense.

7. Criminal Record - The application must include the criminal or arrest record, if any, other than misdemeanor traffic violations, of the applicant.

8. Proof of Age - The application must include written proof that the applicant is at least 18 years of age.

9. Legally Employable - The application must include documentation supporting the individual's legal authority to work in the United States.

10. Photographs - The application must include 3 recent color photographs of the applicant, not more than 2 inches square.

11. The application must include evidence that the applicant has a professional liability insurance policy from an insurer licensed in Maryland in the amount of \$500,000 which covers all acts involved with employment at a massage establishment.



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12. The application must include evidence that the applicant has a license and permit bond in the amount of \$ 10,000 that covers all acts involved with employment at a massage establishment.

C. EXEMPTION

The following categories of individuals and establishments are exempt from the licensing requirements under these regulations, except as specified in C.3.b. of this regulation, but upon request of any police officer or county code enforcement official must produce certification from the State Board or other certifying board as proof that the person(s) has certification or registration in good standing:

1. a person who is a certified massage therapist or registered massage practitioner or otherwise approved by the Board of Chiropractic Examiners, and who operates an independent practice or performs massage in a massage establishment;

2. an athletic trainer who meets the following criteria and applies for the appropriate application for an exemption:

a. currently certified by the National Athletic Trainers' Association Board of Certification (NATABOC) or a comparable organization that is certified by the National Commission of Certifying Agencies and works under the supervision of a physician; or

b. affiliated with an accredited educational institution or professional athletic organization whose members are participating in athletic competition or events sponsored by these organizations; or

3. an establishment where only certified massage therapists or registered massage practitioners or others approved by the Board of Chiropractic Examiners perform massage. Any establishment seeking an exemption on this basis must:

a. provide an annual business plan to include:

(i) name and address of business;

(ii) type of business and services provided;

(iii) days and hours of operation;



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(iv) a list of employees currently licensed by the Maryland Board of Chiropractic Examiners who perform massage on the premises; and

(v) a statement that all employees providing massage therapy to customers will possess a valid license from the Maryland Board of Chiropractic Examiners.

b. Only hire employees to perform massage if they have a valid State or Montgomery County Massage Worker License.

c. Submit an application for Use and Occupancy to the Director of Permitting Services or other jurisdiction authority for any new establishment.

D. CRITERIA FOR DENYING ISSUANCE OR RENEWAL OF A MASSAGE ESTABLISHMENT OR MASSAGE ESTABLISHMENT MANAGER LICENSE

1. The Director must not issue or renew a massage establishment license or massage establishment manager license to:

[1]a. Any applicant or manager who has, within 5 years immediately preceding the date of the application, been convicted of, pled guilty or nolo contendere to, or who has within the last 3 years immediately preceding the date of the application been released from prison based on a conviction of, guilty plea or nolo contendere to, or who has been placed on probation without a finding of guilt for, or who has within 3 years immediately preceding the date of the application completed a period of probation based upon a charge for:

[a](i). Any offense involving violence, or an offense involving a weapon;

[b](ii). Any sex offense as defined in Article 27 of the Annotated Code of Maryland, to include first and second degree rape and first, second, third and fourth degree sex offenses;

[c](iii). Prostitution or soliciting for prostitution;

[d](iv). Violation of any laws governing controlled dangerous substances; or

[e](v). Violation of gaming laws.



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[2]b. Any applicant who makes a false statement or gives a false answer to any question on any form required by the department or who attempts to procure or procures a license by fraud, misrepresentation, misleading statements, evasion or suppression of material facts.

2. The Director may not issue or renew a massage establishment license or massage establishment manager license to an applicant if there is probable cause to believe that the applicant has violated any provision of Montgomery County Code Section 24-11 within the 5 years immediately preceding the date of the application. Probable cause may be established by sworn affidavits of police officers or inspectors from the Department of Health and Human Services or the Department of Permitting Services, or other evidence under the discretion of the Director.

E. CHANGE OF INFORMATION CONTAINED IN LICENSE APPLICATION

Each licensee to whom the Director has issued a massage establishment license or manager license must report to the Director any change in any of the information required to be provided in a massage establishment or manager application under 24.11.01.02.A. The person must make a written report of any change and deliver the report to the Director at least 48 hours after learning of the change. Failure to deliver a report of a change to the Director at least 48 hours after learning of it are grounds for denial or revocation of the license.

F. TERM OF MASSAGE ESTABLISHMENT LICENSE AND MANAGER LICENSE

The term of each massage establishment license or manager license issued by the Director is one year.

G. MESSAGE ESTABLISHMENT LICENSE AND MANAGER LICENSE ANNUAL FEES

Except as provided in this section, each applicant must submit an application and an annual fee in the amount established in the Fee Schedule to the Director with the initial license application and each renewal.

H. MESSAGE ESTABLISHMENT LICENSE AND MANAGER LICENSE RENEWAL

1. Any person to whom the Director has issued a massage establishment license or manager license may renew the license, unless the license has expired or has been revoked by



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the Director. Each renewal applicant must deliver a written license renewal application, on the form provided by the Director, to the Director on or before 30 days before the license expires. In the license renewal application, the applicant must swear or affirm that the licensed massage establishment is being operated in compliance with the minimum standards for a massage establishment license.

2. The renewal applicant must submit to the Director an annual fee with the renewal application in the amount established in the Fee Schedule.

3. The term of each renewed massage establishment license and manager license is one year.

I. CHANGE OF LOCATION FOR MASSAGE ESTABLISHMENT FACILITY

A person to whom the Director has issued a massage establishment license must not change the location of the massage establishment within the County unless:

1. The person notifies the Director in writing, on a new application form, of the intent to change locations before the change occurs;

2. The person submits a change of location fee in the amount established in the Fee Schedule to the Director; and

3. The Director approves the change of location based on establishment licensing requirements of Section 24-11 of the County Code.

J. MASSAGE ESTABLISHMENT LICENSES NOT TRANSFERABLE

A person to whom the Director has issued a massage establishment license must not transfer the license to any other person.

K. INSPECTIONS

1. A person who operates a massage establishment must permit the Director or the Montgomery County Police Department to enter the massage establishment to conduct an inspection. Inspections may be conducted without prior notice. At the Director's request, a person operating a massage establishment must:

[1]a. Produce all business and employment records, including customer registries, licenses, certificates; and registrations that are required by Section 24-11 of the County Code



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or the State Board;

[2]b. Give the Director access to enter and inspect the entire massage establishment; and

[3]c. Permit the Director to interview all employees, customers, and agents of the person who is licensed to operate the massage establishment.

2. If a person who is licensed to operate a massage establishment does not permit the Director to conduct an inspection as required by this regulation, or to cooperate with an inspection, the person violates Section 24-11 of the County Code, and the Director may deny that person's application for a massage establishment license or revoke that person's massage establishment license.

3. Upon receiving a report that an individual is suspected of operating a massage establishment without a license or exemption under this subtitle, the Director or the Montgomery County Police Department may enter the premises to investigate

24.11.01.03 Massage Workers

A. CERTIFICATION REQUIRED

Section 24-11 of the County Code requires that certain people who perform massage hold a license.

B. APPLICATION FOR A MASSAGE WORKER LICENSE

Each person applying for a massage worker license must submit a written application, made under oath or affirmation, in the form provided by the Director. Each person who makes an application must provide the following:

1. The person's full name, residential address, and residential telephone number;
2. The name and address of the massage establishment where the person is to be employed, and the name of the owner of the establishment;
3. The names and addresses of any previous massage establishments where



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the person has been employed for the 3 year period preceding the date of application;

4. The applicant's employment history for the 3 year period preceding the date of application;

5. A statement regarding whether the applicant has ever been convicted of, or pled nolo contendere to, or received probation before judgment in lieu of a conviction of, a crime other than a traffic offense for which imprisonment was not a possible punishment; the nature of the crime and a description of the disposition of the matter; and the name and address of any parole or probation officer or agency that may have knowledge of the offense or the proper completion of any sentence, probation or parole;

6. All necessary signatures and approvals to authorize a complete criminal background check;

7. A copy of the applicant's fingerprints, which must be taken by the Montgomery County Police Department upon payment of the fee established by Executive Regulation, and 4 passport style photographs of the applicant, consisting of 3 front and one side view;

8. The required fee;

9. The applicant's statement under oath that all of the information contained in the application is true and correct;

10. Health Certification - Every applicant for a new or renewal massage worker registration must undergo a physical examination for communicable diseases. The examination must include a tuberculosis skin test administered and interpreted by a licensed physician or registered nurse, together with any other laboratory tests required as part of the examination by a licensed physician. This certification must be issued within 30 days of the examination and signed by a physician stating that the person examined appears at the time of the exam to be free from any communicable disease. The examination must have been done no more than 60 days prior to submitting a new application or the expiration date for a renewal application. An application for issuance or renewal of a license cannot be accepted without the physician's certificate;

11. Evidence that the applicant has a professional liability insurance policy from an insurer licensed in Maryland in the amount of \$500,000 which covers all acts involved with their employment at a massage establishment; and



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12. Evidence that the applicant has a license and permit bond in the amount of \$10,000 that covers all acts involved with their employment at a massage establishment.

C. CRITERIA FOR DENYING ISSUANCE OR RENEWAL OF A MASSAGE WORKER LICENSE

The Director must not issue or renew a massage worker license to:

1. Any person who has, within 5 years immediately preceding the date of the application, been convicted of, pled guilty or nolo contendere to, or who has within the last 3 years immediately preceding the date of the application been released from prison based on a conviction of, guilty plea or nolo contendere to, or who has been placed on probation without a finding of guilt for, or who has within 3 years immediately preceding the date of the application completed a period of probation based upon a charge for:

- a. Any offense involving violence, or an offense involving a weapon;
- b. Any sex offense as defined in Article 27 of the Annotated Code of Maryland, to include first and second degree rape and first, second, third and fourth degree sex offenses;
- c. Prostitution or soliciting for prostitution;
- d. Violation of any laws governing controlled dangerous substances;

or

- e. Violation of gaming laws.

2. Any person who makes a false statement or gives a false answer to any question upon any form required by the department or who attempts to procure or procures a massage worker license by fraud, misrepresentation, misleading statements, evasion or suppression of material facts must not be issued a massage worker license.

D. CHANGE OF INFORMATION CONTAINED IN APPLICATION FOR A MASSAGE WORKER LICENSE

The applicant must make a written report of any change in any of the information required to be provided on the application and deliver the report to the Director at least 48 hours after learning of the change. Failure to deliver a report of a change to the Director at least 48 hours after



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learning of it are grounds for denial or revocation of the license.

E. TERM OF MASSAGE WORKER LICENSE

The term of each massage worker license issued by the Director is one year.

F. MASSAGE WORKER LICENSE FEE

Each person who applies for a massage worker license must submit to the Director, an application and annual license fee, with the massage worker license application, in the amount established in the Fee Schedule.

G. MASSAGE WORKER LICENSE RENEWAL

1. Any person to whom the Director has issued a massage worker license may renew the massage worker license, unless the license has expired or the Director has revoked the massage worker license. Each person who requests renewal of a massage worker license must deliver a renewal application, on the form provided by the Director, to the Director on or before 30 days before the massage worker license expires.

2. The person seeking renewal of the massage worker license must submit to the Director, an annual massage worker license fee, with the massage worker license renewal application, in the amount established in the Fee Schedule.

24.11.01.04 Operation of Massage Establishments

A. RESPONSIBILITY

The licensee of a massage establishment must ensure that the requirements of this section are carried out. Failure to do so is a violation of this section. Where the licensee of the massage establishment delegates duties to a manager, the manager must ensure that the requirements of this section are carried out. Failure to do so is a violation of this section.

B. NOTICES

Each massage establishment must:

1. Have a legible sign, at least 18" by 24" in size, posted next to or on the entrance door identifying the premises as a massage establishment, with the words "licensed massage



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establishment" and the words "this massage establishment is subject to police inspection" printed in letters no less than one inch in height on a background that is a contrasting color;

2. Display at a location inside the establishment and visible to individuals entering the establishment:

- a. The license to operate the establishment;
- b. The license of the massage establishment manager;
- c. The massage worker licenses for each person performing massage at the establishment;
- d. The massage therapist certificate or massage practitioner registration issued by the State Board to any person performing massage at the establishment; and
- e. A copy of Section 24-11 of the County Code and these regulations.

3. Display at each location where massages are given, notice that the premises are subject to inspection under this subtitle.

C. MINIMUM STANDARDS FOR MASSAGE ESTABLISHMENT FACILITIES

Each person who operates a massage establishment in the County that is required to hold a massage establishment license under 24.11.01.02.A. of these regulations, and each applicant, must:

1. Locate the massage establishment in a proper zoning district as specified in Chapter 59 of the County Code;
2. Ensure that the building in which the massage establishment is located complies with all federal, State, and local laws and regulations;
3. Install at least one hand basin in each room in which massages are administered;
4. Ensure that all walls, ceilings, floors, pools, showers, bathtubs, steam rooms, hand basins, baths, spas, and other physical facilities located at a massage establishment are in good repair and maintained in a clean and sanitary condition;



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5. Thoroughly clean and disinfect each wet and dry heat room, steam or vapor room, or steam or vapor cabinet, shower, bathtub, hand basin and toilet room at the massage establishment facility after use by each patron when the facility is in operation;

6. Provide clean, laundered, and sanitary towels and linens for each patron of the massage establishment;

7. Install cabinets for the storage of clean towels and linens, and keep the cabinets clean and sanitary;

8. Ensure that all staff providing massages employed at the massage establishment cleanse his or her hands thoroughly with soap and hot running water immediately before administering each massage;

9. Maintain a registry at the massage establishment and record in the registry the name, residence address, and a description and the date of all services provided to each customer of the establishment;

10. Require each customer of the massage establishment to provide positive identification and to sign the registry;

11. Keep the records entered in the registry of the massage establishment for at least 3 years after the date of service;

12. Ensure and verify that every person who administers a massage at the massage establishment is either certified by the State Board to practice massage therapy or registered by the State Board to practice non-therapeutic massage, or has a County massage worker license;

13. Ensure that no illegal activity is conducted at the massage establishment and that no person employed by the establishment has been convicted of a crime other than traffic offenses for which a sentence of incarceration could not have been imposed within 5 years immediately preceding the date of the application;

14. Ensure that the business operates between no earlier than 8:00 a.m. and no later than 9:00 p.m.

[14]15. Maintain throughout the term of the massage establishment license a comprehensive general liability insurance policy from an insurer licensed in Maryland in the minimum



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amount of \$ 1,000,000, which covers all acts of a massage establishment licensee, a certificate indicating that a massage establishment manager(s) and all massage workers have professional liability insurance in the amount of \$500,000 each, workmen's compensation insurance as required under State law, and a license and permit bond in the amount of \$ 10,000 each to cover all activities at the massage establishment. The licensee must be able to show evidence that this requirement is met at any time to any police officer or code enforcement official; and

[15]16. Maintain throughout the term of the massage establishment manager and worker license professional liability insurance in the amount of \$500,000 each issued by an insurer licensed in Maryland, and a license and permit bond in the amount of \$ 10,000 each. A massage establishment manager and worker must be able to show evidence that this requirement is met at any time to any police officer or code enforcement official.

D. RESIDENCY

No person may reside at a massage establishment.

E. CLOTHING

All employees must wear opaque clothing that completely covers their trunk at all times.

F. PROHIBITED ACTS

A person required to have a massage establishment manager or massage worker license under Section 24-11 of the County Code and these regulations must not:

1. Uncover his/her erogenous areas or the erogenous areas of another person;
2. Administer a massage to a person of the opposite sex;
3. Massage, or offer to massage, an erogenous area of another person; or
4. Engage in any prostitution-related activities, including but not limited to: solicitation, assignation, pandering, common nuisance, or prostitution in the massage establishment.



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24.11.01.05 Severability

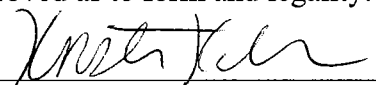
If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

24.11.01.06 Effective Date

This regulation takes effect the day after approval by the County Council

Isiah Leggett
County Executive

Approved as to form and legality:

 5/6/15
Office of the County Attorney/Date